



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/551,713

10/03/2005

Emil Litvak

30755

6208

67801

7590

03/16/2010

MARTIN D. MOYNIHAN d/b/a PRTSI, INC.

P.O. BOX 16446

ARLINGTON, VA 22215

EXAMINER

FARAH, AHMED M

ART UNIT

PAPER NUMBER

3769

MAIL DATE

DELIVERY MODE

03/16/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/551,713	Applicant(s) LITVAK ET AL.	
	Examiner Ahmed M. Farah	Art Unit 3769	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/24/2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 203-238 is/are pending in the application.
- 4a) Of the above claim(s) 233-238 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 203-232 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Newly submitted claims 233-238 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the originally presented method for ablating material is generic for different materials such as inorganic and organic material, including soft biological tissues. The newly presented claims are directed to method of ablating hard biological material, such as hard dental tissue.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 233-238 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

Art Unit: 3769

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 203, 210, 211, 220, 223 and 231 are again rejected under 35

U.S.C. 102(e) as being anticipated by Slatkine U.S. Patent No. 7,184,614.

Slatkine discloses apparatus and method of use for ablating skin tissue, the apparatus comprising: a laser system for generating plurality of ablative laser pulses, a scanning assembly for dynamically diverting the laser beams, within a duration of a pulse of the plurality of pulses, so as to transfer a predetermined amount of energy to each one of a plurality of locations of the material (see Figs. 3c and 3e).

With respect to claims 210 and 231, Slatkine further teaches the use of skin cooling means (i.e., liquid cooler or thermoelectric cool) adapted to reduce increase of temperature at the target skin.

Claims 203-209 and 211-232 are again rejected under 35 U.S.C. 102(b) as being anticipated by Lai U.S. Patent No. 6,706,036.

Lai discloses apparatus and method of use for ablating skin tissue, the apparatus comprising: a laser system for generating plurality of ablative laser pulses, a scanning assembly for dynamically diverting the laser beams, within a duration of a pulse of the plurality of pulses, so as to transfer a predetermined amount of energy to each one of a plurality of locations of the material (see Figs. 1, 7A, 7B, 11, 11A and 12A-12B).

With respect to claim 231, Lai further teaches the use of cooling means adapted to cool the laser system.

Response to Arguments

Applicant's arguments filed December 24, 2010 have been fully considered but they are not persuasive. The applicant argues that the prior art of record fails to teach a scanner adapted to scan the ablative laser beams within duration of a pulse of the plurality of the laser pulses as claimed.

In response to this argument, the applicant's claims fail to teach the duration of the laser pulses, or the scanning speed in which the ablative laser pulses are delivered to target site. The applicant's claims further fail to teach that the cited duration is the pulse duration, not the frequency of the subsequent pulses.

Slatkine, US. Pat. 7,184,614, teaches the scanner is moved at a predetermined speed in coordination with the frequency and duration of the laser pulses to uniformly scan the ablative laser pulses over the target area in order to achieve uniform tissue ablation (see col. 2, line 57-63; col. 3, lines 12-29; and claims 3, 4, 6, and 7).

Lai, US. Pat. 6,706,036, teaches that the scanner is high speed scanner configured to deliver ablative laser pulses over the target area, with high precision (see col. 8, lines 37-43). Lai further teaches that the use of scanning system for delivering ablative laser pulses over target site in an overlapping manner is known in the art (see Figs. 6A-6G). However, although Lai teaches away from the use of complete overlap of the ablative laser pulses, his invention encompasses slightly overlapping of the ablative laser pulses (see col. 21, lines 14-18). Note: a scanner system that provides overlapping laser pulses is configured to operate within the frequency/duration of the subsequent laser pulses.

Hence, both Slatkine and Lai disclose scanning systems adapted to deliver the ablative laser pulses within the frequency/duration of the subsequent ablative laser pulses as claimed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ahmed M. Farah whose telephone number is (571) 272-4765. The examiner can normally be reached on Mon, Tue, Thur and Fri between 9:30 AM 7:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johnson Henry can be reached on (571) 272-4768. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3769

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ahmed M Farah/
Primary Examiner, Art Unit 3769

March 12, 2010